

Assembly Bill No. 1368

Passed the Assembly August 31, 1996

Chief Clerk of the Assembly

Passed the Senate August 30, 1996

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1996, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to add Section 926.19 to the Government Code, relating to claims against the state.

LEGISLATIVE COUNSEL'S DIGEST

AB 1368, Knowles. Claims against the state: payments or refunds.

Existing law provides that a state agency that fails to make any payment for goods and services to certain entities pursuant to contract shall be subject to an interest penalty fee, according to specified criteria.

This bill would , unless otherwise provided for by statute, and with specified exceptions, provide that any state agency that fails to pay a person any undisputed payment or refund due to that person shall be liable for interest on the undisputed amount, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 926.19 is added to the Government Code, to read:

926.19. (a) Unless otherwise provided for by statute, any state agency that fails to pay a person any undisputed payment or refund due to that person shall be liable for interest on the undisputed amount pursuant to this section. The interest shall be paid out of the agency's funds and shall accrue at a rate equal to the interest accrued in the Pooled Money Investment Account minus 1 percent over the term that the payment or refund was held by the agency, beginning on the 31st day after the agency provides notice to the person that a payment or refund is owed to that person or after the agency receives notice from the person that an undisputed payment or refund is due. The interest shall cease to accrue on the date full payment or refund is made.

(b) If the state agency's failure to make payment as required by this section is the result of a dispute between the state agency and the person to whom money is owed,



interest shall begin to accrue on the 31st day after the dispute has been settled by mutual agreement, arbitration, or court decision. A state agency may dispute a payment or refund if the state agency so notifies the person within 15 days after the state agency receives notice from the person that the payment or refund is due.

(c) If the state agency is not authorized to make a payment or refund to a person pursuant to this section, that state agency shall submit the claim to the Controller's office within 15 days of receiving a claim, or shall be liable for an interest penalty beginning on the 16th day, which shall be paid out of the state agency's funds and shall continue to accrue until the claim is received by the Controller's office. After the claim is forwarded to the Controller's office, an interest penalty fee shall begin to accrue on the 16th day after receipt by the Controller's office, and shall be paid out of the Controller's funds. In any event, the interest penalty shall cease to accrue on the date full payment is made to the person.

(d) (1) In the event that a payment or refund is the joint responsibility of more than one state agency, not including the Controller's office, and neither agency is authorized to make a payment or refund, each agency shall forward the claim to the Controller's office within 15 days of receipt. Interest shall begin to accrue on the 16th day, pursuant to subdivision (c). Any accrued interest shall be the responsibility of the state agency that delays the transmittal of the claim to the Controller.

(2) If either of the responsible agencies is authorized to make a payment or refund directly to the person, each agency shall have 15 days to transmit the claim to the other agency or pay the person. Interest shall begin to accrue on the 16th day, and shall be the responsibility of the agency delaying the payment process.

(e) When a state agency is required by this section to pay penalties that accumulate in excess of one thousand dollars (\$1,000) in one fiscal year, the head of the state agency shall submit to the Legislature, within 60 days following the end of the fiscal year, a written report on the actions taken to correct the problem, including



recommendations on actions to avoid a recurrence of the problem and recommendations as to statutory changes, if needed.

(f) A court shall award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to this section where it is found that the state agency has violated this section. The costs and fees shall be paid by the state agency at fault and shall not become a personal economic liability of any public officer or employee thereof. In the case of disputed payments or refunds, nothing in this section shall be construed as precluding a court from awarding a prevailing party the interest accrued while the dispute was pending.

(g) No state agency shall seek additional appropriations to pay interest that accrues as a result of this section.

(h) No person shall receive an interest payment pursuant to this section if it is determined that the person has intentionally overpaid on a liability solely for the purpose of receiving interest.

(i) No interest shall accrue during any time period for which there is no Budget Act in effect, nor on any payment or refund that is the result of a federally mandated program or that is directly dependent upon the receipt of federal funds by a state agency.

(j) This section shall not apply to any of the following:

(1) Payments, refunds, or credits for income tax purposes.

(2) Payment of claims for reimbursement for health care services or mental health services provided under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) Any payment made pursuant to a public social service or public health program to a recipient of benefits under that program.

(4) Payments made on claims by the State Board of Control.

(5) Payments made by the Commission on State Mandates.



(6) Payments made by the Department of Personnel Administration pursuant to Section 19823.



Approved _____, 1996

Governor

